

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Banker License of:

3 No. 08F-BD022-BNK

4 NV MORTGAGE, INC. DBA SOMA FINANCIAL
AND JONATHAN D. AMOS

5 750 Coronado Center Drive
Henderson, NV 89052

6 Respondents.

7 SUPERINTENDENT'S FINAL
DECISION AND ORDER

8 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
9 record in this matter, including the transcripts of the January 25, 2008 administrative hearing, and
10 the, Administrative Law Judge Decision attached and incorporated herein by this reference, adopts
11 the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order as
12 follows:

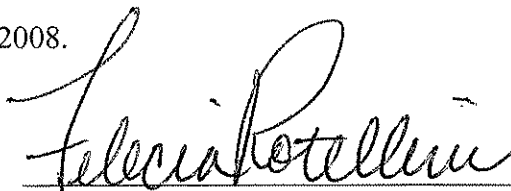
13 ORDER

14 IT IS ORDERED that Respondents' Mortgage Banker License Number MB 0907883 is
15 revoked effective as of the date of this Order.

16 NOTICE

17 The parties are advised that this Order becomes effective immediately and the provisions of
18 this Order shall remain effective and enforceable except to the extent that, and until such time as,
19 any provision of this Order shall have been modified, terminated, suspended, or set aside by the
20 Superintendent or a court of competent jurisdiction.

21
22 DATED this 25th day of February, 2008.

23 

24 Felecia Rotellini
25 Superintendent of Financial Institutions

26 ...

27 ...

1 ORIGINAL filed this 25th day of
2 February, 2008 in the office of:

3 Felecia Rotellini
4 Superintendent of Financial Institutions
5 Arizona Department of Financial Institutions
6 ATTN: June Beckwith
7 2910 North 44th Street, Suite 310
8 Phoenix, Arizona 85018

9 COPY of the foregoing mailed/hand delivered
10 This same date to:

11 Allen Reed, Administrative Law Judge
12 Office of Administrative Hearings
13 1400 West Washington, Suite 101
14 Phoenix, AZ 85007

15 Craig Raby, Assistant Attorney General
16 Office of the Attorney General
17 1275 West Washington
18 Phoenix, AZ 85007

19 Richard Fergus, Licensing Manager
20 Sherry Engels, Licensing
21 Arizona Department of Financial Institutions
22 2910 N. 44th Street, Suite 310
23 Phoenix, AZ 85018

24 Mr. Jonathan D. Amos, President
25 NV Mortgage, Inc. dba Soma Financial
26 750 Coronado Center Drive
27 Henderson, NV 89052

28 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

National Registered Agents, Inc.
Statutory Agent for:
Jonathan Dale Amos, President
NV Mortgage, Inc. dba Soma Financial
638 N. 5th Avenue
Phoenix, AZ 85003

BY: June Beckwith

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In The Matter Of the Mortgage Banker:
4 License of:
5 NV MORTGAGE, INC. dba SOMA
6 FINANCIAL
7 AND JONATHAN D. AMOS
8 750 Coronado Center Drive
9 Henderson, NV 89052
10

No. 08F-BD022-BNK

**ADMINISTRATIVE LAW JUDGE
DECISION**

11 **HEARING:** January 25, 2008

12 **APPEARANCES:** Craig Raby, Assistant Attorney General, appeared on behalf
13 of the State.

14 Not one appeared on behalf of the Respondent.

15 **ADMINISTRATIVE LAW JUDGE:** Allen Reed
16

17 This matter came on for hearing as scheduled. The Respondent had been
18 properly noticed but failed to appear. There is no good cause known for the non
19 appearance. The Department of Financial Institutions (Department) presented
20 testimony and documentary evidence which was not disputed. Based on undisputed
21 evidence, the following findings are submitted.
22

23 **Findings of Fact**

- 24 1. The Respondent, NV Mortgage, Inc. d.b.a. Soma Financial submitted its
25 Mortgage Banker Application to the Department on November 15, 2005.
26 2. In conjunction with the application, the Respondent submitted a bond in the
27 amount of \$25,000.00 issued by Platte River Insurance Company (Platte) and an
28 accompanying Power of Attorney.
29 3. The Department issued a license to the Respondent on May 22, 2006.
30

- 1 4. On February 28, 2007 the Respondent submitted a change of address
2 application to the Department which issued the license reflecting the address
3 change on June 20, 2007.
- 4 5. By Notice of Cancellation dated July 20, 2007, Platte canceled the Respondent's
5 bond (effective August 23, 2007).
- 6 6. Department attempts to contact the Respondent were unsuccessful.
- 7 7. The Department suspended the Respondent's Mortgage Bankers' License
8 effective December 17, 2007.

9 **Conclusions of Law**

10 A.R.S. §6-943(H) requires every person licensed as a mortgage banker to
11 deposit a bond¹ with the superintendent, before doing business.

12 A.R.S. §6-945 allows for sanctions against a licensee if the licensee has violated
13 any applicable law, rule or order.

- 14 1. The State has the burden of proof by a preponderance of the evidence under
15 *Culpepper v. State*, 187 Ariz. 431 (1996 App.) and A.A.C. R2-19-119.
- 16 2. A "preponderance of the evidence is such proof as convinces the trier of fact that
17 the contention is more probably true than not." Morris K. Udall, *Arizona Law of*
18 *Evidence*, §5 (1960). It is "evidence which is of greater weight or more
19 convincing than the evidence which is offered in opposition to it; that is, evidence
20 which as a whole shows that the fact sought to be proved is more probable than
21 not." *Black's Law Dictionary*, 1182 (6th ed. 1990).
- 22 3. The evidence in an administrative hearing must be "substantial, reliable, and
23 probative" (A.R.S. §41-1092.07(F)(1)). This means the Department has the
24 affirmative responsibility to present sufficient competent evidence to meet the
25 preponderance standard.
- 26 4. "Substantial evidence is evidence possessing something of substance and
27 relevant consequence and which furnishes substantial basis of fact from which
28 issues tendered can be reasonably resolved." *Black's Law Dictionary*, Special
29

30 ¹ The minimum is \$25,000.00

Deluxe Fifth Edition, (St. Paul Minn.: West Publishing Co., 1979) p. 1281, citing *State v. Green*, 218 Kan. 438, 544 P. 2d 356, 362.

5. The evidence is undisputed and the facts are clear. The Respondent no longer has the bond required for doing business in the state. This establishes a violation of A.R.S. §6-943(H) and provides grounds for sanctions (including affirming the summary suspension, and revocation of the license) under 6-945.

Recommended Order

It is recommended commencing the effective date of the Order issued in this matter that Mortgage Banker License No. BK-0907883 issued to Soma Financial be revoked.

Done this day, February 1, 2008



Allen Reed
Administrative Law Judge

Original transmitted by mail this
5 day of Feb., 2008, to:

Felecia Rotellini, Superintendent
Arizona Department of Financial Institutions
ATTN: Susan L. Ross
2910 North 44th Street, Suite 310
Phoenix, AZ 85018

By 